

**Showing Current Law as Amended by H.R. 2990, the National Oceanic and Atmospheric Administration Sexual Harassment and Assault Prevention Improvements Act of 2023.**

[new text highlighted in yellow; text to be deleted bracketed and highlighted in blue]

**33 USC CHAPTER 17, SUBCHAPTER VI—SEXUAL HARASSMENT AND ASSAULT PREVENTION**

**SEC. 3541 of the National Defense Authorization Act for Fiscal Year 2017**

**33 USC §894. Actions to address sexual harassment at [National Oceanic and Atmospheric] Administration**

**(a) Required policy**

Not later than 1 year after December 23, 2016, the Secretary of Commerce shall, acting through the Under Secretary for Oceans and Atmosphere, develop a policy on the prevention of and response to sexual harassment involving employees of the [National Oceanic and Atmospheric] Administration, members of the commissioned officer corps of the Administration, and [individuals who work with or conduct business on behalf of the Administration]covered personnel.

**(b) Matters to be specified in policy**

The policy developed under subsection (a) shall include-

- (1) establishment of a program to promote awareness of the incidence of sexual harassment;
- (2) clear procedures an individual should follow in the case of an occurrence of sexual harassment, including-
  - (A) a specification of the person or persons to whom an alleged occurrence of sexual harassment should be reported by an individual and options for confidential reporting, including-
    - (i) options and contact information for after-hours contact; and
    - (ii) a procedure for obtaining assistance and reporting sexual harassment while working in a remote scientific field camp, at sea, or in another field status; and
  - (B) a specification of any other person whom the [victim]target of sexual harassment should contact;
- (3) establishment of a mechanism by which-
  - (A) questions regarding sexual harassment can be confidentially asked and confidentially answered; and
  - (B) incidents of sexual harassment can be reported on a restricted or unrestricted basis; and
- (4) a prohibition on retaliation and consequences for retaliatory actions.

**(c) Consultation and assistance**

In developing the policy required by subsection (a), the Secretary may consult or receive assistance from such State, local, and national organizations and subject matter experts as the Secretary considers appropriate.

**(d) Availability of policy**

The Secretary shall ensure that the policy developed under subsection (a) is available to-

- (1) all employees of the Administration and members of the commissioned officer corps of the Administration, including those employees and members who conduct field work for the Administration; and
- (2) the public.

**(e) Geographic distribution of equal employment opportunity personnel**

The Secretary shall designate out of existing staff at least 1 employee of the Administration who is tasked with handling matters relating to equal employment opportunity or sexual harassment at each marine and aviation center of the Administration.

**(f) Quarterly reports**

**(1) In general**

Not less frequently than 4 times each year, the Director of the Civil Rights Office of the Administration shall submit to the Under Secretary a report on sexual harassment and equal employment in the Administration.

**(2) Contents**

Each report submitted under paragraph (1) shall include the following:

- (A) The number of sexual harassment and equal employment cases, both actionable and non-actionable, involving individuals covered by the policy developed under subsection (a).
- (B) The number of open actionable sexual harassment and equal employment cases and how long the cases have been open.
- (C) A synopsis of each case and the disciplinary action taken, if any, in each case.
- ~~[(C)]~~ (D) Such trends or region-specific issues as the Director may have discovered with respect to sexual harassment and equal employment in the Administration.
- ~~[(D)]~~ (E) Such recommendations as the Director may have with respect to sexual harassment and equal employment in the Administration.

## **SEC. 3542 of the National Defense Authorization Act for Fiscal Year 2017**

### **33 USC §894a. Actions to address sexual assault at [National Oceanic and Atmospheric] Administration**

**(a) Comprehensive policy on prevention of and response to sexual assaults**

Not later than 1 year after December 23, 2016, the Secretary of Commerce shall, acting through the Under Secretary for Oceans and Atmosphere, develop a comprehensive policy on the prevention of and response to sexual assaults involving employees of the [National Oceanic and Atmospheric] Administration, members of the commissioned officer corps of the Administration, and [individuals who work with or conduct business on behalf of the Administration] covered personnel.

**(b) Elements of comprehensive policy**

The comprehensive policy developed under subsection (a) shall, at minimum, address the following matters:

- (1) Prevention measures.
- (2) Education and training on prevention and response.
- (3) A list of support resources an individual may use in the occurrence of sexual assault, including—
  - (A) options and contact information for after-hours contact; and
  - (B) a procedure for obtaining assistance and reporting sexual assault while working in a remote scientific field camp, at sea, or in another field status.
- (4) Easy and ready availability of information described in paragraph (3).
- (5) Establishing a mechanism by which—
  - (A) questions regarding sexual assault can be confidentially asked and confidentially answered; and
  - (B) incidents of sexual assault can be reported on a restricted or unrestricted basis.
- (6) Protocols for the investigation of complaints by command and law enforcement personnel.
- (7) Prohibiting retaliation and consequences for retaliatory actions against someone who reports a sexual assault.
- (8) Oversight by the Under Secretary of administrative and disciplinary actions in response to substantiated incidents of sexual assault.
- (9) [Victim]Survivor advocacy, including establishment of and the responsibilities and training requirements for [victim]survivor advocates as described in subsection (c).
- (10) Availability of resources for [victims]survivors of sexual assault within other Federal agencies and State, local, and national organizations.

**(c) [Victim]Survivor advocacy**

**(1) In general**

The Secretary, acting through the Under Secretary, shall establish [victim]survivor advocates to advocate for [victims]survivors of sexual assaults involving employees of the Administration, members of the commissioned officer corps of the Administration, and [individuals who work with or conduct business on behalf of the Administration]covered personnel.

**(2) [Victim]Survivor advocates**

For purposes of this subsection, a [victim]survivor advocate is an existing permanent employee of the Administration who—

- (A) is trained in matters relating to sexual assault and the comprehensive policy developed under subsection (a); and
- (B) serves as a [victim]survivor advocate voluntarily and in addition to the employee's other duties as an employee of the Administration.

**(3) Primary duties**

The primary duties of a [victim]survivor advocate established under paragraph (1) shall include the following:

- (A) Supporting [victims]survivors of sexual assault and informing them of their rights and the resources available to them as [victims]survivors.
- (B) Acting as a companion in navigating investigative, medical, mental and emotional health, and recovery processes relating to sexual assault.
- (C) Helping to identify resources to ensure the safety of [victims] survivors of sexual assault.

**(4) Location**

The Secretary shall ensure that at least 1 [victim]survivor advocate established under paragraph (1) is stationed—

- (A) in each region in which the Administration conducts operations; and
- (B) in each marine and aviation center of the Administration.

## **(5) Hotline**

### **(A) In general**

In carrying out this subsection, the Secretary shall provide a telephone number at which a [victim]survivor of a sexual assault can contact a [victim]survivor advocate.

### **(B) 24-hour access**

The Secretary shall ensure that the telephone number established under subparagraph (A) is monitored at all times.

### **(C) Partnership**

The Secretary shall, where possible, use established hotlines for purposes of this paragraph.

## **(6) Formal relationships with other entities**

The Secretary may enter into formal relationships with other entities to make available additional [victim]survivor advocates.

### **(d) Availability of policy**

The Secretary shall ensure that the policy developed under subsection (a) is available to—

- (1) all employees of the Administration and members of the commissioned officer corps of the Administration, including those employees and members who conduct field work for the Administration; and
- (2) the public.

### **(e) Consultation and assistance**

In developing the policy required by subsection (a), the Secretary may consult or receive assistance from such State, local, and national organizations and subject matter experts as the Secretary considers appropriate.

## **SEC. 3543 of the National Defense Authorization Act for Fiscal Year 2017**

### **33 USC §894b. Rights of the [victim]survivor of a sexual assault**

A [victim]survivor of a sexual assault covered by the comprehensive policy developed under section 894a(a) of this title has the right to be reasonably protected from the accused.

## **SEC. 3544 of the National Defense Authorization Act for Fiscal Year 2017**

### **33 USC §894c. Change of station**

#### **(a) Change of station, unit transfer, or change of work location of [victims]survivors**

##### **(1) Timely consideration and action upon request**

The Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere, shall—

- (A) in the case of a member of the commissioned officer corps of the [National Oceanic and Atmospheric] Administration who [was]is a [victim]survivor of a sexual assault, in order to reduce the possibility of retaliation or further sexual assault, provide for timely

determination and action on an application submitted by the [victim] survivor for consideration of a change of station or unit transfer of the [victim] survivor; and

(B) in the case of an employee of the Administration who [was] is a [victim] survivor of a sexual assault, to the degree practicable and in order to reduce the possibility of retaliation against the employee for reporting the sexual assault, accommodate a request for a change of work location of the [victim] survivor.

## **(2) Procedures**

### **(A) Period for approval and disapproval**

The Secretary, acting through the Under Secretary, shall ensure that an application or request submitted under paragraph (1) for a change of station, unit transfer, or change of work location is approved or denied within 72 hours of the submission of the application or request.

### **(B) Review**

If an application or request submitted under paragraph (1) by a [victim] survivor of a sexual assault for a change of station, unit transfer, or change of work location of the [victim] survivor is denied—

- (i) the [victim] survivor may request the Secretary to review the denial; and
- (ii) the Secretary, acting through the Under Secretary, shall, not later than 72 hours after receiving such request, affirm or overturn the denial.

## **(b) Change of station, unit transfer, and change of work location of alleged perpetrators**

### **(1) In general**

The Secretary, acting through the Under Secretary, shall develop a policy for the protection of [victims] survivors of sexual assault described in subsection (a)(1) by providing the alleged perpetrator of the sexual assault with a change of station, unit transfer, or change of work location, as the case may be, if the alleged perpetrator is a member of the commissioned officer corps of the Administration or an employee of the Administration.

### **(2) Policy requirements**

The policy required by paragraph (1) shall include the following:

- (A) A means to control access to the [victim] survivor.
- (B) Due process for the [victim] survivor and the alleged perpetrator.

## **(c) Regulations**

### **(1) In general**

The Secretary shall promulgate regulations to carry out this section.

### **(2) Consistency**

When practicable, the Secretary shall make regulations promulgated under this section consistent with similar regulations promulgated by the Secretary of Defense.

## **SEC. 3545 of the National Defense Authorization Act for Fiscal Year 2017**

### **33 USC §894d. Applicability of policies to crews of vessels secured by [National Oceanic and Atmospheric] Administration under contract**

The Under Secretary for Oceans and Atmosphere shall ensure that each contract into which the Under Secretary enters for the use of a vessel by the [National Oceanic and Atmospheric] Administration that covers the crew of the vessel, if any, shall include as a condition of the contract a provision that subjects such crew to the policy developed under section 894(a) of this title and the comprehensive policy developed under section 894a(a) of this title.

## **SEC. 3546 of the National Defense Authorization Act for Fiscal Year 2017**

### **33 USC §894d–1. Investigation requirement**

#### **(a) Requirement to investigate**

##### **(1) In general**

The Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere, shall ensure that each allegation of sexual harassment reported under section 894 of this title and each allegation of sexual assault reported under section 894a of this title is investigated thoroughly and promptly.

##### **(2) Sense of Congress on commencement of investigation**

It is the sense of Congress that the Secretary should ensure that an investigation of alleged sexual harassment reported under section 894 of this title or sexual assault reported under section 894a of this title commences not later than 48 hours after the time at which the allegation was reported.

#### **(b) Notification of delay**

In any case in which the time between the reporting of alleged sexual harassment or sexual assault under section 894 or 894a of this title, respectively, and commencement of an investigation of the allegation exceeds 48 hours, the Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives of the delay.

## **SEC. 3547 of the National Defense Authorization Act for Fiscal Year 2017**

### **33 USC §894d–2. Criminal referral**

If the Secretary of Commerce finds, pursuant to an investigation under section 894d–1 of this title, evidence that a crime may have been committed, the Secretary shall refer the matter to the appropriate law enforcement authorities, including the appropriate United States Attorney.

## **SEC. 3548. EXCEPTIONS REGARDING ANONYMITY OF SURVIVORS IN CERTAIN CASES.**

(a) In General.—In any case in which an employee, member of the commissioned officer corps of the Administration, or covered personnel elects restricted or unrestricted reporting under section 3541(b)(3)(B) or 3542(b)(5)(B), disclosure of the personally identifying

information of such individual is authorized to the following persons or organizations when disclosure would be for the following reasons:

- (1) To Administration staff or law enforcement personnel, if authorized by the survivor in writing.
- (2) To Administration staff or law enforcement personnel to prevent or lessen a serious or imminent threat to the health or safety of the survivor or another person.
- (3) To a survivor advocate or healthcare provider, if required for the provision of survivor services.
- (4) To a State or Federal court, if pursuant to a court order or if disclosure is required by Federal or State statute.

(b) Notice Of Disclosure And Privacy Protection.—In any case in which information is disclosed under subsection (a), the Secretary shall—

- (1) make reasonable attempts to provide notice to the individual whose personally identifying information is disclosed; and
- (2) take such action as is necessary to protect the privacy and safety of the individual.

#### **SEC. 3549. RESTRICTED REPORTING.**

(a) In General.—Not later than 3 years after the date of the enactment of the [National Oceanic and Atmospheric] Administration Sexual Harassment and Assault Prevention Improvements Act of 2023, the Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere, shall develop a mechanism to provide a system of restricted reporting.

(b) Restricted Reporting Defined.—In this section the term ‘restricted reporting’ means a system of reporting that allows employees of the Administration, members of the commissioned officer corps of the Administration, and covered personnel who allege that they have been sexually harassed or sexually assaulted to confidentially disclose the details of such sexual harassment or sexual assault to specified individuals and receive the services outlined in this subtitle—

- (1) without the dissemination of the personally identifying information of such individual except as necessary for the provision of such services and as provided by section 3548(a); and
- (2) without automatically triggering an investigative process.

#### **SEC. 3550. MARINER REFERRAL.**

The Under Secretary of Commerce for Oceans and Atmosphere, acting through the Director of the Office of Marine and Aviation Operations and in consultation with the Commandant of the Coast Guard, shall, not later than 180 days after the date of the enactment of the National Oceanic and Atmospheric Administration Sexual Harassment and Assault Prevention Improvements Act of 2023, develop and implement a policy to report to the Commandant of the Coast Guard, in accordance with section 10104 of title 46, United States Code, the names of personnel of the Administration who—

(1) are the subject of a claim of an act or offense detrimental to good discipline and safety at sea, such as sexual harassment or sexual assault that is substantiated by an investigation under section 3546, or any other substantiated claim of an act or offense for which suspension or revocation of a credential is either mandatory or sought pursuant to part 5 of title 46, Code of Federal Regulations; and



(2) are—

(A) employees or contractors of the Administration required to hold a valid merchant mariner credential as a condition of employment; or

(B) crew of a vessel that, at the time of such act or offense, was operating under a contract with the Administration.

## **SEC. 3551 of the National Defense Authorization Act for Fiscal Year 2017**

### **33 USC §894e. [Annual report on sexual assaults in the National Oceanic and Atmospheric Administration] ANNUAL REPORT ON SEXUAL ASSAULTS, SEXUAL HARASSMENT, AND EQUAL EMPLOYMENT IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.**

#### **(a) In general**

Not later than January 15 of each year, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on [the sexual assaults involving sexual assault and sexual harassment involving and the equal employment of employees of the [National Oceanic and Atmospheric] Administration, members of the commissioned officer corps of the Administration, and [individuals who work with or conduct business on behalf of the Administration]covered personnel].

#### **(b) Contents**

Each report submitted under subsection (a) shall include, with respect to the previous calendar year, the following:

(1) The number of alleged sexual assaults involving employees, members, and individuals described in subsection (a).

(2) A synopsis of each case and the disciplinary action taken, if any, in each case.

(3) The policies, procedures, and processes implemented by the Secretary, and any updates or revisions to such policies, procedures, and processes.

(4) A summary of the reports received by the Under Secretary for Oceans and Atmosphere under section 894(f) of this title, including a synopsis of each case and the disciplinary action taken, if any, in each case.

(5) A summary of the number of change of station, unit transfer, and change of work location requests submitted to the Under Secretary under section 3544(a), including the number of such requests that were denied.

(6) A summary of the number of cases referred to the Coast Guard under this section.

(7) The number of alleged sexual assaults and sexual harassment cases involving fisheries observers, protected species observers, and endangered species observers, including—

(A) a synopsis of each case and the status of such case;

(B) the disposition of any investigation; and

(C) a description of the fishery management region and fishery or the geographic region and type of permitted operation in which the sexual assault or sexual harassment is alleged to have occurred, as appropriate.

#### **(c) Privacy protection**



In preparing and submitting a report under subsection (a), the Secretary shall ensure that no individual involved in an alleged sexual assault can be identified by the contents of the report.

## **SEC. 3552 of the National Defense Authorization Act for Fiscal Year 2017**

### **[§894f. Sexual assault defined**

In this subchapter, the term "sexual assault" shall have the meaning given such term in section 12291(a) of title 34.]

## **SEC. 3552. DEFINITIONS.**

In this subtitle:

(1) **ADMINISTRATION.**—The term 'Administration' means the [National Oceanic and Atmospheric] Administration.

(2) **COVERED PERSONNEL.**—The term 'covered personnel' means an individual who works with or conducts business on behalf of the Administration and includes—

(A) observers, at-sea monitors, and catch monitors required by the National Marine Fisheries Service to operate on or in commercial fishing vessels, other privately owned vessels, barges, or platforms, and shoreside processing facilities for—

(i) commercial fisheries observation required by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(ii) protected species or endangered species observation required by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or

(iii) platform removal observation; and

(B) voting members and executive and administrative staff of regional fishery management councils established by section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852).

(3) **SEXUAL ASSAULT.**—The term 'sexual assault' has the meaning given the term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).

## Section 307(1)(L) of the Magnuson-Stevens Fishery Conservation and Management Act ([16 U.S.C. 1857\(1\)\(L\)](#))

### §1857. Prohibited acts

It is unlawful-

(1) for any person-

(A) to violate any provision of this chapter or any regulation or permit issued pursuant to this chapter;

(B) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this chapter;

(C) to violate any provision of, or regulation under, an applicable governing international fishery agreement entered into pursuant to [section 1821\(c\) of this title](#);

(D) to refuse to permit any officer authorized to enforce the provisions of this chapter (as provided for in [section 1861 of this title](#)) to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this chapter or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(E) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (D);

(F) to resist a lawful arrest for any act prohibited by this section;

(G) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this chapter or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(H) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section;

(I) to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this chapter;

(J) to ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live lobster of the species *Homarus americanus*, that-

(i) is smaller than the minimum possession size in effect at the time under the American Lobster Fishery Management Plan, as implemented by regulations published in part 649 of title 50, Code of Federal Regulations, or any successor to that plan implemented under this subchapter, or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act ([16 U.S.C. 5101 et seq.](#));

(ii) is bearing eggs attached to its abdominal appendages; or

(iii) bears evidence of the forcible removal of extruded eggs from its abdominal appendages;

(K) to to <sup>1</sup> steal or attempt to steal or to negligently and without authorization remove, damage, or tamper with-

(i) fishing gear owned by another person, which is located in the exclusive economic zone, or

(ii) fish contained in such fishing gear;

(L) to [forcibly] assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer [on a vessel] under this chapter, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this chapter;

(M) to engage in large-scale driftnet fishing that is subject to the jurisdiction of the United States, including use of a fishing vessel of the United States to engage in such fishing beyond the exclusive economic zone of any nation, unless such large-scale driftnet fishing-

(i) deploys, within the exclusive economic zone, a net with a total length of less than two and one-half kilometers and a mesh size of 14 inches or greater; and

(ii) is conducted within 5 years of December 29, 2022;

(N) to strip pollock of its roe and discard the flesh of the pollock;

(O) to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required under [section 1852\(j\) of this title](#), or to knowingly vote on a Council decision in violation of [section 1852\(j\)\(7\)\(A\) of this title](#);

(P)(i) to remove any of the fins of a shark (including the tail) at sea;

(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;

(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or

(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;

(Q) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation or any treaty or in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party; or

(R) to use any fishing vessel to engage in fishing in Federal or State waters, or on the high seas or in the waters of another country, after the Secretary has made a payment to the owner of that fishing vessel under [section 1861a\(b\)\(2\) of this title](#).

For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph, the term "naturally attached", with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.

(2) for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage-

(A) in fishing within the boundaries of any State, except-

(i) recreational fishing permitted under [section 1821\(i\) of this title](#);

(ii) fish processing permitted under [section 1856\(c\) of this title](#); or

(iii) transshipment at sea of fish or fish products within the boundaries of any State in accordance with a permit approved under [section 1824\(d\) of this title](#);

(B) in fishing, except recreational fishing permitted under [section 1821\(i\) of this title](#), within the exclusive economic zone, or for any anadromous species or Continental Shelf

fishery resources beyond such zone, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to [section 1824\(b\), \(c\), or \(d\) of this title](#); or

(C) except as permitted under [section 1856\(c\) of this title](#), in fish processing (as defined in paragraph (4)(A) of such section) within the internal waters of a State (as defined in paragraph (4)(B) of such section);

(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under [section 1824\(d\) of this title](#) or [section 1856\(c\) of this title](#) to receive such fish;

(4) for any fishing vessel other than a vessel of the United States to operate, and for the owner or operator of a fishing vessel other than a vessel of the United States to operate such vessel, in the exclusive economic zone or within the boundaries of any State, if-

(A) all fishing gear on the vessel is not stored below deck or in an area where it is not normally used, and not readily available, for fishing; or

(B) all fishing gear on the vessel which is not so stored is not secured and covered so as to render it unusable for fishing;

unless such vessel is authorized to engage in fishing in the area in which the vessel is operating; and

(5) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to engage in fishing in the waters of a foreign nation in a manner that violates an international fishery agreement between that nation and the United States that has been subject to Congressional oversight in the manner described in [section 1823 of this title](#), or any regulations issued to implement such an agreement; except that the binding provisions of such agreement and implementing regulations shall have been published in the Federal Register prior to such violation.

## **Section 261(a) of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 ([33 U.S.C. 3071\(a\)](#))**

### **§3071. Applicability of certain provisions of title 10**

#### **(a) Provisions made applicable to the corps**

The rules of law that apply to the Armed Forces under the following provisions of title 10, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the Administration:

(1) [Chapter 40](#), relating to leave.

(2) [Section 533\(b\)](#), relating to constructive service.

(3) [Section 716](#), relating to transfers between the armed forces and to and from National Oceanic and Atmospheric Administration.

(4) [Section 771](#), relating to unauthorized wearing of uniforms.

(5) [Section 774](#), relating to wearing religious apparel while in uniform.

(6) [Section 982](#), relating to service on State and local juries.

- (7) Section 1031, relating to administration of oaths.
- (8) Section 1034, relating to protected communications and prohibition of retaliatory personnel actions.
- (9) Section 1035, relating to deposits of savings.
- (10) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.
- (11) Section 1052, relating to reimbursement for adoption expenses.
- (12) Section 1074n, relating to annual mental health assessments.
- (13) Section 1090a, relating to referrals for mental health evaluations.
- (14) Chapter 58, relating to the benefits and services for members being separated or recently separated.
- (15) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).
- (16) Chapter 61, relating to retirement or separation for physical disability.
- (17) Section 1251(e), relating to retirement or separation based on years of creditable service.
- (18) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.
- (19) Chapter 71, relating to computation of retired pay.
- (20) Chapter 73, relating to annuities based on retired or retainer pay.
- (21) Subchapter II of chapter 75, relating to death benefits.
- (22) Subchapter I of chapter 88, relating to military family programs, applicable on an as-available and fully reimbursable basis.
- (23) Section 2005, relating to advanced education assistance, active duty agreements, and reimbursement requirements.
- (24) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.
- (25) Sections 2731 and 2735, relating to property loss incident to service.
- (26) Section 657, relating to prohibition on service by individuals convicted of certain sexual offenses.
- ~~(26)~~(27) Section 2771, relating to final settlement of accounts of deceased members.
- (27) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

## Section 10104 of title 46, United States Code

### §10104. Requirement to report sexual offenses

#### (a) Mandatory Reporting by Responsible Entity of a Vessel.-

(1) In general.-The responsible entity of a vessel shall report to the Commandant any complaint or incident of harassment, sexual harassment, or sexual assault in violation of employer policy or law, of which such entity is made aware.

(2) Penalty.-A responsible entity of a vessel who knowingly fails to report in compliance with paragraph (1) is liable to the United States Government for a civil penalty of not more than \$50,000.

#### (b) Reporting Procedures.-

(1) Responsible entity of a vessel reporting.-A report required under subsection (a) shall be made immediately after the responsible entity of a vessel gains knowledge of a sexual assault or sexual harassment incident by the fastest telecommunication channel available to-

(A) a single entity in the Coast Guard designated by the Commandant to receive such reports; and

(B) the appropriate officer or agency of the government of the country in whose waters the incident occurs.

(2) Contents.-Such shall include, to the best of the knowledge of the individual making the report-

(A) the name, official position or role in relation to the vessel, and contact information of such individual;

(B) the name and official number of the documented vessel;

(C) the time and date of the incident;

(D) the geographic position or location of the vessel when the incident occurred; and

(E) a brief description of the alleged sexual harassment or sexual assault being reported.

(3) Receiving reports; collection of information.-

(A) Receiving reports.-With respect to reports submitted under subsection (a), the Commandant-

(i) may establish additional reporting procedures, including procedures for receiving reports through-

(I) a single telephone number that is continuously manned at all times; and

(II) a single email address that is continuously monitored; and

(ii) shall use procedures that include preserving evidence in such reports and providing emergency service referrals.

(B) Collection of information.-After receipt of the report made under subsection (a), the Coast Guard shall collect information related to the identity of each alleged victim, alleged perpetrator, and any witnesses identified in the report through means designed to protect, to the extent practicable, the personal identifiable information of such individuals.

#### (c) Subpoena Authority.-

(1) In general.-The Commandant may compel the testimony of witnesses and the production of any evidence by subpoena to determine compliance with this section.

(2) Jurisdictional limits.-The jurisdictional limits of a subpoena issued under this section are the same as, and are enforceable in the same manner as, subpoenas issued under [chapter 63](#) of this title.

#### (d) Company After-action Summary.-

(1) A responsible entity of a vessel that makes a report under subsection (a) shall-

(A) submit to the Commandant a document with detailed information to describe the actions taken by such entity after becoming aware of the sexual assault or sexual

harassment incident, including the results of any investigation into the complaint or incident and any action taken against the offending individual; and

(B) make such submission not later than 10 days after such entity made the report under subsection (a).

(2) Civil penalty.-A responsible entity of a vessel that fails to comply with paragraph (1) is liable to the United States Government for a civil penalty of \$25,000 and \$500 shall be added for each day of noncompliance, except that the total amount of a penalty with respect to a complaint or incident shall not exceed \$50,000 per violation.

(e) Investigatory Audit.-The Commandant shall periodically perform an audit or other systematic review of the submissions made under this section to determine if there were any failures to comply with the requirements of this section.

(f) Applicability; Regulations.-

(1) Regulations.- The Secretary may issue regulations to implement the requirements of this section.

(2) Interim reports.-Any report required to be made to the Commandant under this section shall be made to the Coast Guard National Command Center, until regulations implementing the procedures required by this section are issued.

(g) Definition of Responsible Entity of a Vessel.-In this section, the term "responsible entity of a vessel" means-

(1) the owner, master, or managing operator of a documented vessel engaged in commercial service; **[or]**

(2) the employer of a seafarer on such a vessel**[i]**; **or**

(3) the Director of the Office of Marine and Aviation Operations, with respect to each vessel owned or operated by the National Oceanic and Atmospheric Administration.